

IN THE IOWA DISTRICT COURT FOR BUCHANAN COUNTY

THOMAS NICHOLS, as Executor of the  
Estate of LINDSAY NICHOLS,

Plaintiff,

v.

CINDY R. ROSES, as Independent  
Executor of the Estate of TIMOTHY G.  
ROSES,

Defendant.

LAW NO: \_\_\_\_\_

**PETITION AT LAW**

**COMES NOW** the Plaintiff, Thomas Nichols, as Executor of the Estate of Lindsay Nichols, and for his cause of action against the Defendant, Cindy R. Roses, as Independent Executor of the Estate of Timothy G. Roses, states as follows:

**PARTIES, JURISDICTION, AND VENUE**

1. On May 16, 2012, Plaintiff, Thomas Nichols, was duly appointed as Administrator of the Estate of Lindsay Nichols and thus is authorized under Iowa Code §§ 611.20 and 611.22 to bring the causes of action set forth in this Petition at Law.
2. On or about May 7, 2012, Cindy Roses was appointed the Independent Executor of the Estate of Timothy G. Roses.
3. The assault and resulting homicide which is the subject of this lawsuit occurred in Buchanan County, Iowa.
4. Venue is properly laid in this jurisdiction pursuant to Iowa Code § 616.18.
5. The damages sustained by the Plaintiff exceed the jurisdictional amount of small claims court.

### **OPERATIVE FACTS**

6. Plaintiff realleges paragraphs 1 through 5 as if fully set forth herein.
7. On March 21, 2012, Lindsay Nichols drove her vehicle to visit a friend at 914 Stevens Street, Jesup, Buchanan County, Iowa.
8. Timothy G. Roses had been following Lindsay Nichols in his vehicle without her knowledge prior to and at the time she arrived at 914 Stevens Street.
9. When Lindsay Nichols's vehicle entered the driveway at the residence at 914 Stevens Street, Timothy G. Roses pulled into the driveway behind Lindsay Nichols's vehicle.
10. An argument ensued between Timothy G. Roses and Lindsay Nichols, and during this argument, Timothy G. Roses displayed a gun he had brought with him to the scene.
11. As this argument progressed, Timothy G. Roses shot Lindsay Nichols in the chest.
12. Timothy G. Roses then turned this gun on himself and took his own life.
13. Timothy G. Roses was pronounced dead on the scene.
14. While severely wounded, Lindsay Nichols was alive at the scene when emergency medical officials responded to this incident
15. Lindsay Nichols was transported to the Covenant Hospital in Waterloo, Iowa, where she was later pronounced dead as a result of the gun shot inflicted by Timothy G. Roses.

### **COUNT I – ASSAULT**

16. Plaintiff realleges paragraphs 1 through 15 as if fully set forth herein.
17. On March 21, 2012, Timothy G. Roses assaulted Lindsay Nichols by threatening her with bodily injury.
18. At the time of the threat, Timothy G. Roses had the ability to carry out the threat as proven by his possession and displaying of a firearm.

## **COUNT II – BATTERY**

19. Plaintiff realleges paragraphs 1 through 18 as if fully set forth herein.
20. On March 21, 2012, Timothy G. Roses battered Lindsay Nichols by shooting her with a firearm.
21. Timothy G. Roses' action of shooting was offensive touching, as required for a claim of battery under Iowa law.
22. Lindsay Nichols' death was caused as a direct result of Timothy G. Roses' assault.
23. The assault perpetrated by Timothy G. Roses was the proximate cause of the death of Lindsay Nichols, and the damages suffered by the Estate of Lindsay Nichols.

## **COUNT III –LOSS OF CONSORTIUM**

24. Plaintiff realleges paragraphs 1 through 23 as if fully set forth herein.
25. Thomas Nichols is the biological father of Lindsay Nichols.
26. Teresa Johnson is the biological mother of Lindsay Nichols.
27. As a result of the acts of Timothy G. Roses, Thomas Nichols has incurred the loss of his daughter Lindsay Nichols' service, companionship, and society.
28. As a result of the acts of Timothy G. Roses, Teresa Johnson has incurred the loss of her daughter Lindsay Nichols' service, companionship, and society.

## **DAMAGES**

29. Plaintiff realleges paragraphs 1 through 28 as if fully set forth herein.
30. As a result of the actions of Timothy G. Roses, the Estate of Lindsay Nichols has sustained damages in the following particulars:
  - a. Pre-death physical and mental pain and suffering on behalf of Lindsay Nichols;
  - b. Pre-death loss of full function of the mind and body on behalf of Lindsay Nichols;

- c. Interest on the funeral and burial expenses of Lindsay Nichols from the time of her death until the time such expenses would have been paid, had she lived out the course of her natural life;
- d. The present value of the additional amount the Estate of Lindsay Nichols would reasonably have been expected to have accumulated as a result of her own effort if she had lived out the term of her natural life;
- e. The reasonable value of necessary hospital charges and other medical services from the time of assault to the time of her death; and
- f. Other miscellaneous out-of-pocket expenses resulting from the acts of Timothy G. Roses.

31. As a result of the actions of Timothy G. Roses, Thomas Nichols has lost his daughter Lindsay Nichols' service, companionship, and society.

32. As a result of the actions of Timothy G. Roses, Teresa Johnson has lost her daughter Lindsay Nichols' service, companionship, and society.

**WHEREFORE** Plaintiff, Thomas Nichols, as Executor of the Estate of Lindsay Nichols, respectfully requests a judgment against the Defendant, the Estate of Timothy G. Roses, for the injuries and damages sustained as set forth herein, together with interest and costs, all as provided by law.

Respectfully submitted,

LaMARCA & LANDRY, P.C.

By: \_\_\_\_\_  
George A. LaMarca AT0004443  
1820 N.W. 118th Street, Suite 200  
Des Moines, Iowa 50325  
Telephone: 515-225-2600  
Facsimile: 515-225-8581  
E-mail: george@lamarcalandry.com  
ATTORNEYS FOR PLAINTIFFS

